

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Equal Employment Opportunity Commission)
North Dakota Department of Labor and Human)
Rights: Wage Division on behalf of: Jose Louis)
Cabrera (deceased),)

Plaintiffs,)

vs.)

Pyramid Instrumentation and Electric Corporation)
now known as PTW Energy Services,)

Defendant.)

**ORDER AND REPORT AND
RECOMMENDATION**

Case No. 1:18-cv-091

Claudia Jimenez Cabrera initiated the above entitled action *pro se* on May 4, 2018, with the payment of the filing fee and the filing of a complaint. The complaint alleges in substance the defendant discriminated against and otherwise violated the rights of Ms. Cabrera's husband, now deceased, while he was in the defendant's employ.

On July 30, 2018, the undersigned issued an Order to Show Cause and Report and Recommendation. (Doc. No. 8). Therein the undersigned explained to Ms. Cabrera why she cannot pursue claims on behalf of EEOC, the NDDOL, or her deceased husband's estate in a representative capacity (she is not an attorney licensed to practice in this court) and ordered her to show cause by July 30, 2018, why this action should not be dismissed. (Id.). In so doing, the undersigned encouraged her to retain counsel in the interim, who could then file an amended complaint that "cleans up" the case caption and identifies the real parties in interest, i.e., Jose Luis Cabrera's estate and its representative(s). (Id.)

On motion by Ms. Cabrera, the undersigned extended her deadline for responding/objecting

the Order to Show Cause and Report and Recommendation until October 1, 2018.

By all appearances Ms. Cabrera has yet to retain counsel. She has, however filed, a motion and amended motion to substitute parties in an effort to “clean up” the case caption. In her amended motion she requests that the case caption be amended to read as follows:

Jose Luis Caberera, Deceased.
Claudia Jeaneth Jimenez Caberera,
North Dakota Personal Representative
On the Estate of Jose Louis Cabrera,
Surviving spouse, and Guardian of their Minors,

Plaintiffs,

vs

Pyramid Instrumentation and Electric Corporation
now know as PTW Energy Service,

Defendants.

(Doc. No. 9).

The undersigned deems as **MOOT**, the original motion to substitute (Doc. No. 6), **GRANTS** the amended motion to substitute (Doc. No. 9), and directs that the case caption be amended accordingly.

The undersigned cannot stress strongly enough that, regardless of the amendment to the case caption, Ms. Caberera cannot represent her deceased husband’s estate and that it remains incumbent upon her to secure representation if she wants to proceed with this action. Put another way, the amendment to the case caption does not fix the fundamental problem. The claim she is asserting belongs to her husband’s estate. It is not “personal” to her. Ms. Cabrera is reminded that she has until October 1, 2018, to respond to the undersigned’s order to show cause and report and recommendation. Should Ms. Cabrera fail to respond as directed or otherwise secure representation,

it remains the undersigned's **RECOMMENDATION** that this matter be dismissed without prejudice.

IT IS SO ORDERED.

Dated this 21st day of August, 2018.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr., Magistrate Judge
United States District Court